

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

61/6009PCT 01/22/04 FAIRCLOUGH A 616009PCT

31M1/0715
FAIRCLOUGH, WILLIAM & BECKER
2000 41 10th PLAZA, SUITE 300
ALABAMA, AL 36814

EXAMINER VANAMAN, F

ART UNIT	PAPER NUMBER
----------	--------------

3106 10

DATE MAILED: 07/15/96

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

...and a statutory period for response to this action
...to expire three months(s), or thirty days,
...from the date of this communication.

Office Action Summary

Application No.

08/307,703

Applicant(s)

Fairclough

Examiner

Frank Vanaman

Group Art Unit

3106



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 14-20 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 14-20 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on Apr 30, 1996 is ☒ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3106

Status of Claims

1. Claims 1-13 have been cancelled, claims 14-20 have been added and are pending.

Drawings

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on April 30, 1996 have been approved.

Specification

3. The Abstract of the Disclosure is objected to because on line 2, "such as" should be deleted, as applicant has deleted the drawing reference numerals from the text of the abstract. Correction is required. See M.P.E.P. § 608.01(b).
4. The disclosure is objected to because of the following informalities: on page 7, lines 11-12, applicant refers to figure 3 as being a section, whereas in the brief description of the drawings, the figure is referred to as a partial side view. Appropriate correction is required.

Claim Objections

5. Claim 19 is objected to because of the following informalities: on line 2, it appears that "a braking mechanisms" should be --braking mechanisms-- or --a braking mechanism--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The rejection of claims 1-13 under 35 USC 112 is withdrawn due to the cancellation of claims 1-13.
7. Claims 14-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 14, line 3, and claim 16, line 4, the term "supporting" fails to recite a connection or clear physical relationship. In claim 15, lines 3 and 4, the term "intersecting" fails to recite a connection between elements. In claim 15, line 4, there is no antecedent basis for the terms "the front and rear sloping frames". In claim 18, line 2, there is no antecedent basis for the term "the lower sloping bars". In claim 20, line 1, there is no antecedent basis for the term "the space".

Art Unit: 3106

Claim Rejections - 35 USC § 102

8. Claims 14 and 20 are rejected under 35 U.S.C. § 102(b) as being anticipated as understood by Konar (US 3,061,328). Konar teaches an adjustable stroller having a platform (lower surface of element 112), rigidly mounted to a frame (2-5, 6, 7) the stroller being provided with a plurality of wheels including rear wheels (elements 12) mounted proximate the rear trailing edge of the platform and wherein seat mounting means (web elements 77 and 79) are mounted substantially forward of the platform. The seat mounting means (elements 77, 79, and fasteners 78) are carried by forward projecting horizontal members (elements 29) and auxiliary bar members (elements 37). The area above the platform is selectively covered by a removable top portion (117, see col 6, lines 30-35).

In response to Applicant's arguments and recitations indicating a second child standing on the platform element, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987). With respect to applicant's arguments that a child is prevented from mounting or dismounting the platform element "since the upright parts of the wire basket is clearly too high for a child to step over..." it is unclear how the determination was reached absent scaling information provided by the reference, and it is additionally noted that there is no recitation of a mounting or dismounting of the platform by a child in the claim. It is additionally noted that the reference of Konar teaches a stroller which can be used with or without the seat element 117.

9. The examiner apologizes for and regrets any inconveniences associated with the citation of the following reference of Gill ('316) not previously cited.

10. Claims 14 and 20 are rejected under 35 U.S.C. § 102(b) as being anticipated, as understood, by Gill (US 2,917,316). Gill teaches a stroller having a frame (24, 17, 70), a platform (lower portion of 85) located at a rear end of the frame and open at a top surface, a seat (13) having mounting means (34) located forward of the platform 85, the stroller frame

Art Unit: 3106

having delta shaped sides each comprising front sloping bars (17), rear sloping bars (24) which intersect (at 27), and a horizontal frame (70) with which both the front and rear sloping bars intersect.

Claim Rejections - 35 USC § 103

11. Claim 19 is rejected under 35 U.S.C. § 103 as being unpatentable over Gill in view of Cheng. The reference of Gill fails to teach the rear wheels as each having a braking mechanism wherein the two mechanisms are connected by a coupling rod. The reference of Cheng teaches a pair of brake mechanisms (see figure 2) each having actuating members (elements 20' and 20a) which are coupled together by a bar (element 30') which is pivotally connected (at elements 40) to the actuating members. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the brakes and brake coupling mechanism taught by Cheng on the stroller of Gill for the purpose of providing a means to hold the stroller stationary, and additionally to connect the brake mechanisms together for the purpose of enabling the user to operate both brakes with a single motion.

12. Claim 19 is rejected under 35 U.S.C. § 103 as being unpatentable over Konar in view of Cheng. The reference of Konar fails to teach the rear wheels as each having a braking mechanism wherein the two mechanisms are connected by a coupling rod. The reference of Cheng teaches a pair of brake mechanisms (see figure 2) each having actuating members (elements 20' and 20a) which are coupled together by a bar (element 30') which is pivotally connected (at elements 40) to the actuating members. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the brakes and brake coupling mechanism taught by Cheng on the stroller of Gill for the purpose of providing a means to hold the stroller stationary, and additionally to connect the brake mechanisms together for the purpose of enabling the user to operate both brakes with a single motion.

Allowable Subject Matter

13. Claims 15, 16, 17 and 18 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112 and to include all of the limitations of the base claim and any

Serial Number: 08/307,703

-5-

Art Unit: 3106

intervening claims. The references of Gill and Konar both fail to teach the platform member as being mounted on the lower ends of the rear sloping bars, as recited in claim 15.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

FRANK VANAMAN
Patent Examiner
Art Unit 3106

Frank Vanaman
July 8, 1996

FBV
7/8/96

Richard M. Camby 7/9/96
RICHARD M. CAMBY
PRIMARY EXAMINER
GROUP 3100